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U.S. GOALS FOR THE NOVEMBER 1982 MEETING OF MINISTERS TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE

MAY 27 (legislative day, MAY 25), 1982.—Ordered to be printed

Mr. DOLE, from the Committee on Finance, submitted the following

REPORT

[To accompany S. Res. 386]

The Committee on Finance, to which was referred the resolution (S. Res. 386) with respect to the goals of the United States regarding the November 1982 meeting of the world's trade ministers to the General Agreement on Tariffs and Trade, reports favorably thereon without amendment and recommends that the resolution do pass.

I. SUMMARY

The General Agreement on Tariffs and Trade (GATT) is the principal multilateral agreement applicable to world trade. Periodic trade negotiations under the auspices of the GATT have been held to reduce or to eliminate tariff and nontariff trade barriers. Next November, ministerial-level representatives to the GATT will convene to consider the state of the world trading system and what should comprise the GATT's future work program. Senate Resolution 386 would express the sense of the Senate on what the United States should seek to accomplish at the meeting. These objectives are to review the adequacy of existing agreements, particularly as they relate to agricultural trade and disputes settlement; to initiate a work program leading to an expansion of the GATT to cover trade in services, high technology products, and trade-related investment restrictions; and to complete an agreement on safeguards. The resolution also calls for the creation of private sector commissions to review long-term challenges to the international trading system.

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II. Background

Since its genesis in 1947, the GATT has served as the major agreement and institution governing world trade. Periodic rounds of negotiations held since its commencement have resulted in substantially reduced tariffs, special provisions for developing countries, and "codes" of conduct applicable to many nontariff trade barriers. Through legislation, the Congress authorized the President to negotiate these trade agreements. Many were also subject to subsequent legislative approval. The Trade Agreements Act of 1979 approved and implemented the codes of conduct achieved during the 1970's "Tokyo Round" of multilateral trade negotiations, as well as a few of the tariff reductions.

The rapid expansion of United States and world trade in the past three decades may be attributed in part to the basic strength of the GATT. U.S. merchandise exports increased in that period by a factor of 23, to $236 billion in 1981. Exports of goods and services now comprise about 12 percent of the U.S. gross national product. Approximately 14 percent of manufacturing employment is now export-related. The principal goal of the trade agreements program is to foster such continued beneficial growth.

Prior success in tariff reduction and the conclusion of several nontariff barrier agreements do not mask real problems with the GATT system, however. In several hearings this year, including ones on February 24 on the Subsidies Code and March 1 on plans for the GATT ministerial meeting, the Committee examined many of these problems. For example, the codes of conduct negotiated during the Tokyo Round carried the potential of a fairer and more equitable world trading system, as well as the expansion of U.S. exports, by reaffirming and modernizing preexisting GATT rules and by extending GATT rules to previously exempted activities, such as government procurement of some articles. But these agreements have not had the expected results, in great part because expected levels of increased discipline over trade distortion have not resulted. Some subsidies under government programs such as the European Communities Common Agricultural Policy have actually increased since the new Subsidies Code went into force, thereby reducing the access of unsubsidized U.S. exports to foreign agricultural markets.

The principal tariff negotiating authority of the President—section 101 of the 1974 Trade Act—expired in 1979. The President may negotiate nontariff barrier issues, however, under section 102, which was extended in 1979 for 8 years. While not itself a negotiating session, the ministerial meeting quite possibly will result in agreement on (1) reopening the MTN codes for discussions on improvements, and (2) opening negotiations on new areas not now covered by the GATT or its associated codes. A preparatory committee currently is drafting the agenda for the meeting and is expected to complete work shortly. Already scheduled for 1983–85 are continued work on the harmonized system of nomenclature, and review of the procurement and standards codes.

Committee Resolution

S. Res. 386 addresses several major trade issues that the Committee believes the trade ministers should take up. These include the following:

1. Review of the results of the Multilateral Trade Negotiations (MTN)

(a) *Subsidies.*—The Subsidies Code remains unsettled in scope and interpretation. In return for granting an injury test in U.S. law, the Congress believed that this country, through the Code, would achieve better international discipline of the use of export subsidies and a commitment by developing countries to phase out their subsidy programs as those countries develop. But significant export subsidization continues and there is question whether developing countries have undertaken real commitments.

The Code's vague and less comprehensive language regarding agricultural products are at the center of a number of disputes between the United States and the European Communities (E.C.) currently pending before the GATT that perhaps will help clarify GATT obligations in this regard. Nevertheless, the Committee is concerned that the Subsidies Code will remain inadequate to ensure American farmers and others of fair market competition. The resolution therefore expresses this concern and calls for a review of the Subsidies Code.

(b) *Disputes Settlement.*—An effective disputes settlement system is essential to realization of the MTN's potential benefits. The cases now pending suggest a newly energetic approach by the United States to use of the GATT disputes settlement system. Many other countries also evince greater interest in use of the system. Despite improvements introduced by the Frameworks Agreement, and by specific provisions in other MTN codes, it is unclear whether the system is adequate to manage the increasing demands placed upon it. In particular, it appears that there is great room for obfuscation and delay by countries responding to complaints. Thus, the resolution states the need for review of the GATT's disputes settlement provisions.

(c) *Safeguards.*—Article XIX of the GATT allows temporary restrictions to be placed on surging imports that are causing domestic injury. Section 201 of the 1974 Trade Act implements this provision in U.S. law. But because Article XIX's criteria are insufficiently defined there is an incentive for some countries entirely to avoid its apparent requirements and to restrict imports on other grounds. The E.C. further seek to amend Article XIX to allow unfettered "selective" safeguard action—i.e., to place restrictions on particular sources of imports on a non-most-favored-nation basis. The United States and developing countries opposed this idea in the MTN. No agreement was reached, and negotiations remain stalled.

Nearly a decade has passed since the Tokyo Declaration, the basis for the MTN, called for an "examination of the adequacy of the multilateral safeguard system." The Congress repeated this call in section 107 of the 1974 Trade Act, where it is set forth as a specific U.S. negotiating objective. The Committee thus reaffirms in the resolution the need for an effective safeguards agreement.

2. New Issues

(a) *Services.*—Services as a component of the world economy, and particularly that of the United States, have increased significantly in the past four decades. Services exports also have grown, but not relative to the overall vast increase in trade. Nevertheless, some estimate

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that the value of international services transactions doubled from 1960 to 1970 and again from 1970 to 1975. The banking, construction, insurance, transportation, and communications industries are particularly prominent in U.S. services exports. These likely will grow and other sectors will join them; already it is estimated that 7 of every 10 domestic jobs are service-related.

All countries need better data on services transactions. And, increasingly, the Committee receives information documenting obstacles to U.S. services exports. Efforts in such fora as the Organization of Economic Cooperation and Development (OECD) are already underway to collect data and to establish rules for many international services transactions. The United States, for example, has sought agreement on liberal rules for transborder data flow. There are other international agreements applicable to various transportation sectors.

The GATT generally covers only trade in products, although it extends to services practices associated with products. But in view of the growing importance of services trade, the increasing association of services and products trade, and its broad membership, the GATT should be revised to serve as a more comprehensive agreement for trade in both. S. Res. 386 thus urges the GATT to undertake a work program that will lead to negotiations—and ultimately, an agreement—to curb barriers to services trade.

(b) *High-technology trade.*—As the Administration has stated:

> The developed world will devote increasing resources to 'knowledge-intensive' industries such as electronics, telecommunications, fiber optics, robotics, and biotechnology. These industries are experiencing high levels of technological breakthroughs. The high level of government involvement in these high-technology industries in both developed and newly industrializing countries, combined with the rapidity of market growth and product innovation, could pose serious strain on the trading system.

High-technology trade uniquely blends product, service, subsidy, industrial policy, and national security issues in a way that appears to fit uncomfortably into the existing international trading rules. The Committee is concerned that the rapid growth and change in technology trade, inbued as it is with fundamental governmental interests in both fostering and protecting domestic industries, will increasingly engender trade disputes that the GATT is ill-equipped to handle. As the resolution states, now is the time to resolve these coming difficulties.

(c) *Investment.*—There exists little empirical evidence on the trade-distorting effects of restrictions on free international investment flows. Nevertheless, it is widely believed that in spite of such restrictions the approximately $500 billion level that international investment reached in 1980 played a profound role in world trade expansion. Developing countries—and some developed ones, such as Canada—increasingly control private investment decisions in ways that clearly impact trade opportunities. Performance requirements are prominent among tools restricting trade in this way.

Again, these issues are being addressed in several fora. The OECD, for example, adopted a decision on investment several years ago. The United States further is attempting to limit such restrictions through its Bilateral Investment Treaty program. No comprehensive, multilateral approach to these issues is underway, however. The Committee therefore expresses in S. Res. 386 its belief that it is essential for the GATT to undertake a work program leading to reductions—or elimination—of restrictions on investment flows.

3. Industrial policies

Many nations resort increasingly to a combination of protection and developmental aid to foster growth in particular industries, especially ones with significant export potential. While these policies raise many traditional issues of unjustifiable trade distortion, they also invoke more complex questions of sovereignty than addressed heretofore in trade agreements. This country does not target industries for such comprehensive and sustained government succor, but U.S. industries must compete at home and abroad with firms that are so benefited. Achievement of discipline over the trade-distorting effects of industrial policies must be a principal subject for GATT discussion if the international system is to preserve fairness as a fundamental tenet.

The Committee recognizes how fundamentally different are the nature of industrial policies from more traditional trade barriers. The establishment of a successful work program—much less purposeful negotiations—is a formidable task. Foresight and prudence, however, require that work commence today on the agenda of the 1990's.

Thus, as a first step, the Committee calls in S. Res. 386 for the establishment of expert national and international commissions charged with analyzing these difficult issues and making recommendations concerning them. The Committee believes such commissions played an important role in achieving a consensus on nontariff trade barriers that set the stage for the MTN codes. The example should be repeated.

ESTIMATED REVENUE IMPACT

The resolution itself will have no revenue impact.

PRIOR ACTION

There has been no action on any resolution or bill comparable to S. Res. 386. S. 1233, which passed the Senate on April 22, 1982, is consonant with S. Res. 386 in that its purpose, in part, is to promote U.S. service industries and services trade.

III. Vote of the Committee in Reporting the Resolution

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the Committee to report the resolution: the resolution was ordered favorably reported without objection.

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